

HOUSE BILL 2033
By Clem

AN ACT to enact the "Sorry Works! Program Act" and to
amend Tennessee Code Annotated, Title 29,
Chapter 26.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Sorry Works! Program Act".

SECTION 2. The Sorry Works! Program is hereby established. Under the program, participating hospitals and health care practitioners shall promptly acknowledge and apologize for mistakes in patient care and promptly offer fair settlements. Participating health care practitioners shall encourage patients and families to retain their own legal counsel to ensure that their rights are protected and to help facilitate negotiations for fair settlements. Participating hospitals and health care practitioners shall report to the Sorry Works Committee their total costs for medical malpractice verdicts, settlements, and defense litigation for the preceding five (5) years to enable the committee to determine average costs for the hospital or health care practitioner during the period. The committee shall develop standards and protocols to compare costs for cases handled by traditional means and cases handled under the Sorry Works! protocol.

SECTION 3. In any malpractice action against a participating hospital or health care practitioner in which liability is admitted or established, the damages awarded may include (in addition to other elements of damages authorized by law) noneconomic losses; provided, however, damages for such noneconomic losses shall not exceed two hundred fifty thousand dollars (\$250,000).

SECTION 4.

(a) A committee is hereby established to develop, oversee, and implement the Sorry Works! program. The committee shall have seven (7) members, each of whom shall be a voting member. Four (4) members of the committee shall constitute a quorum. The committee shall be comprised as follows:

- (1) One (1) representative of the department of commerce and insurance;
- (2) One (1) representative of the department of health ;
- (3) One (1) representatives of the Tennessee Medical Association;
- (4) One (1) representatives of the Tennessee Trial Lawyers Association;
- (5) One (1) representatives of the Tennessee Hospital Association;
- (6) One (1) representatives of the Tennessee Bar Association; and
- (7) One (1) actuarial expert to be chosen by the commissioner of commerce and insurance.

(b) The committee shall report to the governor and the general assembly annually.

(c) The committee shall publish data regarding the program.

(d) Committee members shall receive no compensation for the performance of their duties as members, but each member shall be paid necessary expenses while engaged in the performance of those duties.

SECTION 5. As used in this act:

(1) "Health care practitioner" means physicians licensed under title 63, chapter 6 or title 63, chapter 9;

(2) "Hospital" has the definition provided at § 68-11-201; provided, that as used in this act a "hospital" must be licensed as a hospital by the board of licensing health care facilities pursuant to the provisions of § 68-11-202, et seq.; and provided further,

that "hospital" does not include a nursing home, ambulatory surgical treatment center or other health care facility enumerated and defined in title 68, chapter 11, unless operated as a part of and in connection with a "hospital"; and

(3) "Participating hospital or health care practitioner" shall mean any hospital or health care practitioner who has been the subject of an action for medical malpractice within the five (5) year period preceding the effective date of this act. The program shall be open only to the first one hundred (100) health care practitioners and the first two (2) hospitals who apply with the Sorry Works Committee for inclusion in the program;

SECTION 6. The program shall terminate after its fourth year of operation.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect July 1, 2005, the public welfare requiring it.